

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

LARRY MARKLE,	:	Civil No. 1:13-CV-1410
	:	
Petitioner	:	(Judge Rambo)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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SCOTT ALLEN NOLL	:	Civil No. 1:13-CV-1622
	:	
Petitioner	:	(Judge Jones)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
SUPERINTENDENT OF THE STATE	:	
CORRECTIONAL INSTITUTION	:	
AT DALLAS, et al.,	:	
	:	
Respondents	:	

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JOHN LEBO, JR.,	:	Civil No. 1:13-CV-1637
	:	
Petitioner	:	(Judge Rambo)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN W. KERESTES, et al.,	:	
	:	
Respondents	:	

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DONTAE DION CHAMBERS,	:	Civil No. 1:13-CV-1655
	:	
Petitioner	:	(Chief Judge Conner)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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JUSTIN J. ROBERTSON,	:	Civil No. 1:13-CV-1656
	:	
Petitioner	:	(Judge Jones)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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STEVEN PANNEBAKER,	:	Civil No. 1:13-CV-1670
	:	
Petitioner	:	(Judge Rambo)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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ROXANNE SEVERCOOL,	:	Civil No. 1:13-CV-1671
	:	
Petitioner	:	(Judge Caldwell)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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COREY HOLLINGER,	:	Civil No. 1:13-CV-1681
	:	
Petitioner	:	(Chief Judge Conner)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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MICHAEL KUTENITS,	:	Civil No. 1:13-CV-1682
	:	
Petitioner	:	(Judge Kane)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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HENRY WHITMAN, III	:	Civil No. 1:13-CV-1684
	:	
Petitioner	:	(Judge Jones)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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RONALDO SANCHEZ,	:	Civil No. 1:13-CV-1690
	:	
Petitioner	:	(Judge Caldwell)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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JERRELL M. STEWART,	:	Civil No. 1:13-CV-1707
	:	
Petitioner	:	(Judge Jones)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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WARNER ERVIN BATTY, JR.,	:	Civil No. 1:14-CV-1375
	:	
Petitioner	:	(Judge Rambo)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
FRANK J. TENNIS, et al.,	:	
	:	
Respondents	:	

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JAMES BUTTON,	:	Civil No.1:14-CV-1379
	:	
Petitioner	:	(Judge Caldwell)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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WILFREDO CABALLERO,	:	Civil No. 1:14-CV-1380
	:	
Petitioner	:	(Judge Jones)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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HENRY L. DENNISON, JR.,	:	Civil No. 1:14-CV-1383
	:	
Petitioner	:	(Chief Judge Conner)
	:	
v.	:	(Magistrate Judge Schwab)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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GERALD WRIGHT,	:	Civil No. 1:14-CV-1390
	:	
Petitioner	:	(Judge Kane)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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JOHNNY MILLER,	:	Civil No. 3:13-CV-1452
	:	
Petitioner	:	(Judge Mannion)
	:	
v.	:	(Magistrate Judge Carlson)
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JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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SCOTT EUGENE GRIFFIN,	:	Civil No. 3:13-CV-1657
	:	
Petitioner	:	(Judge Mariani)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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JOHN VINCENT WATERS,	:	Civil No. 3:13-CV-1662
	:	
Petitioner	:	(Judge Mannion)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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CLAYTON FAXON,	:	Civil No. 3:13-CV-1669
	:	
Petitioner	:	(Judge Conaboy)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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JACKIE THOMPSON,	:	Civil No. 3:13-CV-1672
	:	
Petitioner	:	(Judge Kosik)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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BRANDON THOMAS BROWN,	:	Civil No. 3:13-CV-1673
	:	
Petitioner	:	(Judge Caputo)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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ANTHONY CESSNA,	:	Civil No. 3:13-CV-1680
	:	
Petitioner	:	(Judge Munley)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	



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YARIEL CORTES,	:	Civil No. 3:13-CV-1685
	:	
Petitioner	:	(Judge Mariani)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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SCOTT C. DAVIS,	:	Civil No. 3:13-CV-1687
	:	
Petitioner	:	(Judge Nealon)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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ZACHARY WITMAN,	:	Civil No. 3:13-CV-1688
	:	
Petitioner	:	(Judge Conaboy)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JON F. FISHER, et al.,	:	
	:	
Respondents	:	

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DWAYNE MORNINGWAKE,	:	Civil No. 3:13-CV-1698
	:	
Petitioner	:	(Judge Kosik)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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KWILSON COLEMAN,	:	Civil No. 3:13-CV-1699
	:	
Petitioner	:	(Judge Caputo)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
STEVEN GLUNT, et al.,	:	
	:	
Respondents	:	

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BERNARD WILLIAMS,	:	Civil No. 3:13-CV-1705
	:	
Petitioner	:	(Judge Munley)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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JEFFREY E. LEFEVRE,	:	Civil No. 3:13-CV-1721
	:	
Petitioner	:	(Judge Munley)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JEROME WALSH, et al.,	:	
	:	
Respondents	:	

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NORMAN RONALD GUNDRUM, JR.,	:	Civil No. 3:13-CV-1736
	:	
Petitioner	:	(Judge Nealon)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
PA State Attorney General, et al.,	:	
	:	
Respondents	:	

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DARON NESBIT,	:	Civil No. 3:13-CV-1786
	:	
Petitioner	:	(Judge Mannion)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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CHRISTOPHER BAKER,	:	Civil No. 3:14-CV-1374
	:	
Petitioner	:	(Judge Kosik)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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HOWARD JONES,	:	Civil No. 3:14-CV-1385
	:	
Petitioner	:	(Judge Nealon)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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FOSTER LEE TARVER,	:	Civil No. 3:14-CV-1389
	:	
Petitioner	:	(Judge Mannion)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JAMES HOWARD, et al.,	:	
	:	
Respondents	:	

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TODD HYUNG-RAE TARSELLI,	:	Civil No. 4:13-CV-939
	:	
Petitioner	:	(Judge Brann)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
LOUIS FOLINO, et al.,	:	
	:	
Respondents	:	

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TYRONE JACKSON,	:	Civil No. 4:13-CV-1472
	:	
Petitioner	:	(Judge Brann)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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RICHARD CALVIN KLINGER,	:	Civil No. 4:13-CV-1537
	:	
Petitioner	:	(Judge Brann)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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DWAYNE SMITH-BEY,	:	Civil No. 4:13-CV-1665
	:	
Petitioner	:	(Judge Brann)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
DANIEL P. BURNS, et al.,	:	
	:	
Respondents	:	

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CHRISTOPHER NOLAN,	:	Civil No. 4:14-CV-1386
	:	
Petitioner	:	(Judge Brann)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Respondents	:	

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### **ORDER**

In these proceedings, the petitioners are inmates in the custody of the Pennsylvania Department of Corrections, who are serving sentences of life imprisonment that were imposed upon each of the petitioners after the petitioners were convicted of murders, murders that were committed at a time when the petitioners were juveniles. Each petitioner has filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, arguing that his or her sentence of life

imprisonment is unconstitutional under the Eighth And Fourteenth Amendments to the United States Constitution, in light of the United States Supreme Court's holding in Miller v. Alabama, 567 U.S. \_\_\_\_, 132 S. Ct. 2455 (2012), which struck down mandatory life sentences for juvenile offenders. We are overseeing pre-trial management in each of these cases and all of these cases appear to involve a common legal issue relating to the retroactivity of the Supreme Court's decision in Miller to cases pending on collateral review.

Because this question concerning the retroactivity of the Miller decision was pending before the Court of Appeals and the United States Supreme Court, we stayed consideration of these petitions pending a definitive ruling on this question of law, a question which we believed was common to all of these petitions, and a question whose resolution may be outcome determinative in many of these cases.

We now have this definitive ruling. On January 25, 2016, the United States Supreme Court held that Miller's prohibition on mandatory life without parole for juvenile offenders announced a new substantive rule that, under the Constitution, is retroactive in cases on state collateral review. Montgomery v. Louisiana, No. 14 280, 2016 WL 280758 (U.S. Jan. 25, 2016). In light of this ruling, IT IS ORDERED as follows:

1. The stays previously entered in the above captioned cases are LIFTED.

2. On or before **February 26, 2016**, counsel in the above-captioned cases shall meet and confer, and report to this court in writing regarding whether, in light of Miller and its retroactive application by the Supreme Court in Montgomery v. Louisiana, No. 14 280, 2016 WL 280758 (U.S. Jan. 25, 2016), the petitioner is entitled to habeas corpus relief in the form of orders remanding these cases to the Court of Common Pleas for further proceedings in accordance with Miller and Montgomery.

So ordered this 26th day of January 2016.

/s/ **Martin C. Carlson**

Martin C. Carlson

United States Magistrate Judge